

104TH CONGRESS
1ST SESSION

H. R. 182

To provide for disclosures for insurance in interstate commerce.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mrs. COLLINS introduced the following bill; which was referred to the
Committee on Commerce

A BILL

To provide for disclosures for insurance in interstate
commerce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti Redlining in
5 Insurance Disclosure Act”.

6 **SEC. 2. FINDINGS AND CONSTRUCTION.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) there are disparities in property and cas-
9 ualty insurance coverage provided by some insurers
10 engaged in interstate commerce between areas of
11 different incomes and racial composition,

1 (2) such disparities adversely affect insurance
2 in interstate commerce and the affordability and
3 availability of insurance for consumers, and

4 (3) disclosures of insurance activities of insur-
5 ers would benefit consumers and insurance regu-
6 lators without imposing any undue burden on
7 insurers.

8 (b) CONSTRUCTION.—Nothing in this Act is intended
9 to, nor shall it be construed to, encourage unsound under-
10 writing practices.

11 **SEC. 3. MAINTENANCE OF INFORMATION AND PUBLIC DIS-**
12 **CLOSURE.**

13 (a) GENERAL RULE.—

14 (1) DESIGNATED INSURERS.—Except as pro-
15 vided by subsection (b)(5), each insurer designated
16 by the Secretary, which sells a line of insurance des-
17 ignated by the Secretary in a Metropolitan Statis-
18 tical Area or Consolidated Metropolitan Statistical
19 Area, as designated by the Secretary (both hereafter
20 in this Act referred to as a “MSA”), shall compile
21 and make available for each calendar year to the
22 Secretary in accordance with subsection (d) and reg-
23 ulations of the Secretary and to the public for in-
24 spection and copying at the home office or at a
25 central depository established under subsection (c)

1 and at least one branch office (if there is one) within
2 such designated MSA—

3 (A) the number and total coverage amount
4 of insurance policies by line designated by the
5 Secretary which were issued or for which the in-
6 surer received a completed application in such
7 designated MSA, and

8 (B) the number of agents of such insurer
9 whose principal place of business is located in
10 such designated MSA and the number within
11 each census tract or county, as applicable, in
12 such designated MSA and with respect to each
13 such agent, whether such agent is an employee,
14 independent contractor working exclusively for
15 such insurer, or an independent contractor
16 appointed to represent such insurer on a non-
17 exclusive basis.

18 (2) NON-DESIGNATED INSURERS.—Except as
19 provided in subsection (b)(5), every insurer which
20 sells an insurance policy in a designated line of in-
21 surance in a designated MSA and which is not a
22 designated insurer in such MSA shall report for
23 each calendar year to the Secretary in accordance
24 with subsection (d) and regulations of the Secretary
25 the number of insurance policies in a designated line

1 sold in such MSA on an annualized basis which ad-
2 justs for varying durations of insurance policies
3 sold—

4 (A) itemized by census tract for policies
5 sold within any county with a population of
6 more than 30,000 within the designated MSA,
7 or

8 (B) by county for insurance policies sold
9 within any other county in such MSA.

10 Such information shall be made available to the pub-
11 lic on a timetable determined by the Secretary but
12 not later than December 31 of the calendar year fol-
13 lowing the calendar year for which the information
14 is required to be reported.

15 (b) REQUIREMENTS.—

16 (1) CONTENT.—The information required to be
17 maintained and made available under subsection
18 (a)(1) shall—

19 (A) be itemized in order to clearly and con-
20 spicuously disclose the number and coverage
21 amount for each line of insurance for which
22 information is required by—

23 (i) census tracts for insurance policies
24 within any county with a population of

1 more than 30,000 within the designated
2 MSA, or

3 (ii) county for insurance policies with-
4 in any other county within such designated
5 MSA,

6 (B) disclose for each designated line of in-
7 surance in a designated MSA and, with respect
8 to each such line, for each census tract or
9 county, as applicable, in the designated MSA—

10 (i) the total number of claims made
11 which with respect to property insurance
12 shall be disaggregated by the type and use
13 of the property insured, and

14 (ii) the total amount paid in claims
15 which with respect to property insurance
16 shall be disaggregated by the type and use
17 of the property insured,

18 (C) disclose the standards and criteria
19 used in underwriting each designated line of
20 insurance, and

21 (D) be made available to the public on a
22 timetable determined by the Secretary but not
23 later than December 31 of the calendar year
24 following the calendar year for which the infor-
25 mation is required to be made available.

1 (2) ITEMIZATION OF DATA.—With respect to in-
2 surance for which information is required to be
3 maintained and made available under subsection
4 (a)(1), the following information shall be maintained
5 and made available for each completed application
6 and for each policy:

7 (A) The designated MSA for which such
8 insurance is issued and within such MSA the
9 census tract or county, as applicable, for which
10 such insurance is issued.

11 (B) The designated insurer who issued
12 such insurance.

13 (C) The date of the issuance of such insur-
14 ance.

15 (D) The line of the insurance which is des-
16 ignated and any subline or class of such insur-
17 ance.

18 (E) The type of insurance or policy form
19 for which applications are made and the types
20 of insurance and policy forms which are issued.

21 (F) The amount of coverage provided
22 under such insurance and any applicable
23 deductibles.

24 (G) The amount of the premiums for such
25 insurance.

1 (H) The durations of such insurance.

2 (I) A notation if such insurance was issued
3 in a voluntary or residual market.

4 (J) The reason for any declination, can-
5 cellation, or non-renewal made for such insur-
6 ance.

7 (K) With respect to property insurance,
8 the market value of the property insured and
9 the type and use of property insured.

10 (3) PERIOD OF MAINTENANCE.—Any informa-
11 tion required to be compiled and made available
12 under subsection (a) shall be maintained and made
13 available for a period of 5 years after the close of
14 the first year during which such information is
15 required to be maintained and made available.

16 (4) FORMAT FOR DISCLOSURES.—Subject to
17 subsection (c), the Secretary shall prescribe a stand-
18 ard format for making information available as re-
19 quired by subsection (a). Such format shall encour-
20 age the submission of information in a form read-
21 able by a computer.

22 (5) EXEMPTION.—

23 (A) SECRETARIAL ACTION.—The Secretary
24 may by regulation exempt from the require-
25 ments of subsection (a) any insurer within any

1 State if the Secretary determines that under
2 the laws of such State that such insurer is sub-
3 ject to disclosure requirements on a census
4 tract basis substantially similar to those of sub-
5 section (a) and that such law contains adequate
6 provisions for enforcement.

7 (B) UNITED STATES PROGRAM.—Report-
8 ing shall not be required under subsection (a)
9 with respect to insurance provided by a
10 program underwritten or administered by the
11 United States.

12 (6) COMPLETED APPLICATION.—For purposes
13 of subsection (a) and this subsection, the Secretary
14 shall define “completed applications” to—

15 (A) ensure that the disclosure required by
16 such subsections appropriately reflects the char-
17 acteristics of the applicants interested in pur-
18 chasing insurance in a designated MSA, and

19 (B) prevent insurers from evading the in-
20 tent of such subsections through practices de-
21 signed to discourage applicants from completing
22 applications.

23 (c) ACCESS SYSTEM.—The Secretary, shall imple-
24 ment a system to facilitate access to information required
25 to be maintained and made available under subsection (a).

1 Such system shall include arrangements for a central de-
2 pository of information in each designated MSA and for
3 a telephone number which can be used by the public, at
4 cost, to request such information. Statements shall be
5 made available to the public for inspection and copying
6 at such central depository of information for all designated
7 insurers within such MSA.

8 (d) SUBMISSION TO SECRETARY.—The information
9 referred to in subsection (a) shall be submitted to the Sec-
10 retary. The Secretary shall develop regulations prescrib-
11 ing—

12 (1) the format for making such information
13 available,

14 (2) the method for submission of such informa-
15 tion, and

16 (3) the procedures for making the information
17 available to the public.

18 Any reporting insurer may submit in writing to the Sec-
19 retary such additional data or explanations as it deems
20 relevant to the decision by such insurer to sell insurance.

21 **SEC. 4. DESIGNATIONS.**

22 (a) DESIGNATIONS BY THE SECRETARY.—

23 (1) DESIGNATIONS OF MSA'S.—The Secretary
24 shall, on an annual basis, designate the MSA's for
25 which reporting is required under section 3. At a

1 minimum, the Secretary shall designate the 150
2 MSA's having the largest population. The Secretary
3 may designate additional MSA's on the basis of such
4 criteria as the Secretary may by rule develop. Such
5 a rule shall be issued in accordance with section 553
6 of title 5, United States Code.

7 (2) DESIGNATION OF INSURERS.—For each
8 MSA designated under paragraph (1), the Secretary
9 shall take the following actions:

10 (A) The Secretary shall annually designate
11 the insurers transacting insurance business in
12 such MSA for which reporting is required under
13 section 3. At a minimum, the Secretary shall
14 annually designate the 25 insurers in such MSA
15 having the largest premium volume in the
16 designated lines of insurance.

17 (B) The Secretary shall also annually des-
18 ignate any entity providing insurance in a des-
19 ignated line of insurance as part of a residual
20 market established by State law.

21 (C) The Secretary may designate addi-
22 tional insurers on the basis of such criteria as
23 the Secretary may by rule develop. Such a rule
24 shall be issued in accordance with section 553
25 of title 5, United States Code. In considering

1 whether to designate additional insurers, the
2 Secretary shall ensure that—

3 (i) insurers who specialize in selling
4 insurance in urban areas, including surplus
5 lines insurers, are specifically considered
6 for designation notwithstanding their pre-
7 mium volume, and

8 (ii) that insurers representing at least
9 90 percent of the premium volume in
10 the designated lines of insurance are
11 designated in such MSA.

12 (3) DESIGNATION OF LINES OF INSURANCE.—

13 For each MSA designated under paragraph (1) the
14 Secretary shall designate the lines of property and
15 casualty insurance sold in such MSA for which re-
16 porting is required under section 3. At a minimum,
17 the Secretary shall annually designate—

18 (A) private passenger automobile insurance
19 (including appropriate sublines and classes),

20 (B) property insurance which does not
21 cover commercial property (including appro-
22 priate sublines and classes and related cov-
23 erages such as coverage of property contents
24 and property insured at cash value), and

1 (C) commercial insurance for small busi-
2 ness.

3 The Secretary may designate additional lines of in-
4 surance on the basis of such criteria as the Sec-
5 retary may by rule develop. Such a rule shall be
6 issued in accordance with section 553 of title 5,
7 United States Code. For purposes of this Act, the
8 designation of a line of insurance includes a designa-
9 tion of a subline or class of insurance.

10 (4) TIMING OF DESIGNATIONS.—The Secretary
11 shall make the annual designations required by
12 paragraphs (1), (2), and (3) no later than Septem-
13 ber 1 of the year preceding the year for which re-
14 porting is required under section 3. The Secretary
15 shall notify persons involved in the designations no
16 later than the October 1 which follows the designa-
17 tion.

18 (b) OBTAINING INFORMATION.—The Secretary may
19 obtain from insurers such information as the Secretary
20 may require to make designations under subsection (a).

21 **SEC. 5. DISCLOSURES TO REJECTED APPLICANTS.**

22 (a) IN GENERAL.—Except as provided in subsection
23 (e), the Secretary shall, by regulation issued under section
24 553 of title 5, United States Code—

1 (1) require insurers to provide to each applicant
2 for insurance in a designated line—

3 (A) reasons for denying an application for
4 such insurance or for canceling or not renewing
5 a policy in force, and

6 (B) actions the applicant may take to qual-
7 ify for such insurance, and

8 (2) restrict the use insurers may make of infor-
9 mation relating to—

10 (A) adverse underwriting decisions, or

11 (B) insurance coverage in a residual mar-
12 ket.

13 (b) MODEL ACTS.—In issuing regulations under sub-
14 section (a), the Secretary shall consider relevant portions
15 of model acts developed by the National Association of
16 Insurance Commissioners.

17 (c) ENFORCEMENT.—The Secretary may delegate to
18 the States the authority to enforce the requirements of
19 regulations issued under subsection (a).

20 (d) PREEMPTION.—Subsection (a) is not to be con-
21 strued to preempt any State from imposing on insurers
22 requirements of the type stated in such subsection, includ-
23 ing requirements which are more stringent or more com-
24 prehensive.

1 (e) EXEMPTION.—A regulation issued under sub-
2 section (a) may not apply to insurance provided under a
3 program underwritten or administered by the United
4 States.

5 (f) DEFINITION.—For purposes of subsection
6 (a)(2)(A), an adverse underwriting decision means any of
7 the following actions with respect to insurance trans-
8 actions involving insurance coverage which is individually
9 underwritten:

10 (1) A declination of insurance coverage.

11 (2) A termination of insurance coverage.

12 (3) Failure of an agent to apply for insurance
13 coverage with a specific insurance entity which the
14 agent represents and which is requested by the
15 applicant.

16 (4) In the case of property or casualty insur-
17 ance coverage—

18 (A) place by an insurance entity or agent
19 of a risk with a residual market mechanism, an
20 unauthorized insurer, or an insurance entity
21 which specializes in substandard risks, or

22 (B) the charging of higher rates on the
23 basis of information which differs from that
24 which the applicant or policyholder furnished.

1 **SEC. 6. TERMINATION OF AGENTS.**

2 (a) REGULATIONS.—Except as provided in subsection
3 (d), the Secretary shall, by regulation issued under section
4 553 of title 5, United States Code, ensure that the prac-
5 tices of insurers in terminating agents who handle prop-
6 erty or casualty insurance do not result in an inappropri-
7 ate effect on the availability or affordability of insurance
8 from such insurers. Such regulations shall specifically en-
9 sure that such practices do not result in unfair discrimina-
10 tion against agents as a result of their geographic loca-
11 tions or of the geographic locations of their clients. Regu-
12 lations under subsection (a) shall be stated in terms of
13 minimum standards.

14 (b) PREEMPTION.—Subsection (a) is not to be con-
15 strued to preempt any State from imposing on insurers
16 requirements of the type stated in such subsection, includ-
17 ing requirements which are more stringent or more com-
18 prehensive.

19 (c) ENFORCEMENT.—The Secretary may delegate to
20 the States the enforcement of such regulations.

21 (d) EXEMPTION.—A regulation issued under sub-
22 section (a) may not apply to insurance provided under a
23 program underwritten or administered by the United
24 States.

1 **SEC. 7. IMPLEMENTATION.**

2 The Secretary shall prescribe such regulations as may
3 be necessary to carry out section 3. Such regulations may
4 contain such classifications, differentiations, or other pro-
5 visions, and may provide for such adjustments and excep-
6 tions for any class of transactions, as in the judgment of
7 the Secretary are necessary and proper to effectuate the
8 purposes of such section and to prevent circumvention or
9 evasion thereof or to facilitate compliance therewith.

10 **SEC. 8. RELATION TO STATE LAWS.**

11 This Act does not annul, alter, or affect, or exempt
12 the obligation of any insurer subject to this Act to comply
13 with the laws of any State or subdivision thereof with
14 respect to public disclosure and recordkeeping.

15 **SEC. 9. IMPROVED METHODS.**

16 The Secretary shall develop, or assist in the improve-
17 ment of, methods of matching addresses and census tracts
18 to facilitate compliance by insurers, in as economical a
19 manner as possible, with the requirements of this Act.

20 **SEC. 10. REPORT.**

21 The Secretary shall report to the Committee on Com-
22 merce of the House of Representatives and the Committee
23 on of the Senate on the implementation of
24 this Act and shall make recommendations to such commit-
25 tees on such additional legislation as the Secretary deems
26 appropriate to carry out this Act.

1 **SEC. 11. COMPILATION OF AGGREGATE DATA.**

2 (a) SCOPE OF DATA AND TABLES.—The Secretary
3 shall compile each year, for each MSA, aggregate data by
4 census tract for all insurers who are subject to section 3
5 or who are exempt from section 3 under subsection
6 (b)(5)(A) of such section. The Secretary shall also produce
7 tables indicating, for each MSA, aggregate insurance un-
8 derwriting patterns for various categories of census tracts
9 grouped according to location, age of property, income
10 level, and racial characteristics.

11 (b) AVAILABILITY TO PUBLIC.—The data compiled
12 and the tables produced pursuant to subsection (a) shall
13 be made available to the public on a timetable determined
14 by the Secretary but not later than December 31 of the
15 year following the calendar year on which the data and
16 tables are based.

17 **SEC. 12. ENFORCEMENT.**

18 (a) CIVIL PENALTIES.—An insurer who does not
19 comply with the requirements of section 3 or a regulation
20 issued under section 5 or 6 shall be subject to a civil pen-
21 alty of not to exceed \$5,000 for each day during which
22 such violation continues.

23 (b) INJUNCTION.—The district courts of the United
24 States shall have jurisdiction over a petition of the Sec-
25 retary to enjoin an insurer from actions which are in viola-

1 tion of the requirements of section 3 or of a regulation
2 issued under section 5 or 6.

3 **SEC. 13. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “commercial insurance” means
6 any line of property and casualty insurance, except
7 private passenger automobile and homeowner’s in-
8 surance.

9 (2) The term “insurer” means any corporation,
10 association, society, order, firm, company, partner-
11 ship, individual, or aggregation of individuals which
12 is subject to examination or supervision by any State
13 insurance regulator, or which is doing or represents
14 an insurance business.

15 (3) The term “personal lines of insurance”
16 means any property and casualty insurance issued
17 for noncommercial personal, family, or household
18 purposes.

19 (4) The term “property and casualty insur-
20 ance” means insurance against loss of or damage to
21 property, insurance against loss of income or extra
22 expense incurred because of loss of, or damage to,
23 property, and insurance against third party liability
24 claims caused by negligence or imposed by statute or
25 contract.

1 (5) The term “residual market” means an as-
2 signed risk plan, joint underwriting association, or
3 any similar mechanism designed to make insurance
4 available to those unable to obtain it in the
5 voluntary market.

6 (6) The term “Secretary” means the Secretary
7 of Commerce.

8 (7) The term “State” means any State, the
9 District of Columbia, the Commonwealth of Puerto
10 Rico, the Northern Mariana Islands, the Virgin Is-
11 lands, American Samoa, and the Trust Territory of
12 the Pacific Islands.

13 **SEC. 14. EFFECTIVE DATE**

14 The requirements of this Act shall take effect with
15 respect to calendar year 1996.

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